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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/417,863	10/13/1999	JEFFRY JOVAN PHILYAW	PHLY-24.767	8055

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HOWISON, THOMA & ARNOTT, L.L.P.
P.O. BOX 741715
DALLAS, TX 75374-1715

EXAMINER

BLAIR, DOUGLAS B

ART UNIT PAPER NUMBER

2152

DATE MAILED: 07/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/417,863

Applicant(s)

PHILYAW ET AL.

Examiner

Douglas B Blair

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,666,293 to Metz et al. in view of U.S. Patent Number 5,894,516 to Brandenburg.

As to claim 16, Metz teaches a system for distributing software, comprising: a television broadcast distribution system (Figure 1 shows a television broadcast distribution system.) having one or more broadcast channels for broadcasting analog and digital television information to a receiver of a user (col. 19, lines 38-50); one or more software data streams designated for transmission on select ones of said one or more broadcast channels (col. 8, lines 32-39); and a user storage device connected to said receiver for storing said selected one or more software data streams which were downloaded (col. 9, lines 38-55); wherein said one or more software data streams are transmitted over said selected ones of said one or more broadcast channels (col. 8, lines 32-39), each of said one or more software data streams having a unique ID associated therewith (col. 9, lines 56-67 and col. 10, lines 1-12); wherein said select ones of said one or more software data streams are downloaded via said receiver according to said respective unique ID's (col. 9, lines 56-67 and col. 10, lines 1-12); however, Metz does not explicitly teach a system wherein software data streams are transmitted at a scheduled time.

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Brandenburg teaches a system wherein software data streams are transmitted over a broadcast channel at a scheduled time (col. 3, lines 59-65).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Metz regarding software download to a set-top box with the teachings of Brandenburg regarding the scheduling of software data stream transmissions over a broadcast channel because a schedule would simplify the download process from the end user's perspective.

As to claim 18, Metz teaches a system wherein said select ones of said one or more software data streams are checked for errors when being downloaded (col. 37, lines 44-59).

As to claim 19, Brandenburg teaches a system wherein a receiver automatically re-selects for download, and downloads, one or more software data streams which fail an error checking process (Figure 4 shows a system re-selecting software for downloading when checksum matching fails.).

As to claim 20, Metz teaches a system wherein one or more software data streams are broadcast repetitively during a specific period of time (col. 8, lines 52-64).

As to claim 21, Brandenburg teaches a system where one or more software data streams are broadcast once during a specific time period (col. 3, lines 59-65).

As to claim 25, Metz teaches a system wherein a receiver is programmed by inputting parameters which comprise time (col. 9, lines 20-30), channel, and unique ID information (col.9, lines 47-67 and col. 10, lines 1-12).

As to claim 26, Metz teaches a system wherein one or more software data streams comprise software applications which are broadcast on a first channel, and one or more software updates which are broadcast on a second channel (col. 41, lines 51-67 and col. 42, lines 1-5).

As to claim 27, Brandenburg teaches a system wherein select ones of said one or more software data streams are downloaded directly to a user computer over a communication link existing between said receiver and said user computer (col. 4, lines 54-61).

As to claim 28, Brandenburg teaches the system as described by claim 27; however Brandenburg does not explicitly teach a system featuring a universal serial bus.

Official notice is taken that it is well known in the art of computer networking that two computers can be linked using a universal serial bus.

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Brandenburg regarding to computers linked together with the idea of using a universal serial bus to link the computers because a universal serial bus is an easy and efficient way to link to computers together.

As to claim 29, Brandenburg teaches the system as described by claim 27; however Brandenburg does not explicitly teach a system featuring a high-performance serial bus.

Official notice is taken that it is well known in the art of computer networking that two computers can be linked using a high-performance serial bus.

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Brandenburg regarding to computers linked together with the idea of using a high-performance serial bus to link the computers because a high-performance serial bus is an easy and efficient way to link to computers together.

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As to claim 30, Metz teaches a system wherein said television broadcast distribution system is a digital television broadcast system (col. 4, lines 57-67 and col. 5, lines 1-4).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,666,293 to Metz et al. in view of U.S. Patent Number 5,894,516 to Brandenburg as applied to claim 16 above, and further in view of U.S. Patent Number 5,935,004 to Tarr et al..

As to claim 17, the teachings of Metz and Brandenburg combine to make the subject of claim 16 obvious; however, Metz and Brandenburg do not explicitly teach a cable television broadcast system.

Tarr teaches a software distribution system that uses a cable television broadcast system (col. 3, lines 49-67 and col. 4, lines 1-6).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Metz and Brandenburg regarding the distribution of software with the teachings of Tarr regarding the use of a cable television broadcast system because the cable television system provides a practical medium for delivering software to home users.

Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,666,293 to Metz et al. in view of U.S. Patent Number 5,894,516 to Brandenburg as applied to claim 16 above, and further in view of U.S. Patent Number 5,003,384 to Durden et al..

As to claim 22, the teachings of Metz and Brandenburg combine to make the subject of claim 16 obvious. Metz teaches the use of unique ID's to represent one or more software data

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streams (col. 9, lines 56-67 and col. 10, lines 1-12); however, Metz and Brandenburg do not explicitly teach an accounting device.

Durden teaches a system wherein an accounting device logs unique ID's of one or more programs which were downloaded, and transmits said unique ID's to a provider of one or more data streams using said accounting device (col. 8, lines 24-68 and col. 9, lines 1-30).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Metz and Brandenburg regarding the distribution of software with the teachings of Durden regarding the storage and uploading of accounting data because both software and programs are data downloaded from a service provider so the same type of accounting system could be used for both.

As to claim 23, Durden teaches a system wherein an accounting device interfaces to a public-switched telephone network, and transmits said unique ID's over said public-switched telephone network to a provider of one or more data streams (col. 8, lines 24-68 and col. 9, lines 1-30).

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,666,293 to Metz et al. in view of U.S. Patent Number 5,894,516 to Brandenburg and U.S. Patent Number 5,003,384 to Durden et al. as applied to claim 22 above, and further in view of U.S. Patent Number 6,317,885 to Fries.

As to claim 24, the teachings of Metz, Brandenburg, and Durden combine to teach the system of claim 22; however, they do not explicitly teach the use of a packet-switched global communication network to transmit accounting data.

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Fries teaches a television set-top box that is directly connected to the internet (col. 6, lines 35-55).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Metz, Brandenburg and Durden regarding the distribution of software and the uploading of accounting data with the teachings of Fries regarding a television set-top box connected to the internet because transmitting data over a packet-switched global network would be a more modern alternative to Durden method of sending accounting data over the telephone network.

As to claims 1-15, they have similar limitations to claims 16-30, respectively, and are thus rejected on the same basis as claims 16-30.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B Blair whose telephone number is 703-305-5267. The examiner can normally be reached on 9am-6:30pm Mon-Thurs, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (703)305-4815. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-4731 for regular communications and (703)305-4731 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Douglas Blair
July 12, 2002



MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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